91ST CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
1st Session } { No. 91-524

EXPORT CONTROL ACT EXTENSION

SEPTEMBER 29, 1969.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. PATMAN, from the Committee on Banking and Currency, submitted the following

REPORT

together with

SUPPLEMENTAL VIEWS

[To accompany H.R. 4293]

The Committee on Banking and Currency, to whom was referred the bill (H.R. 4293) to provide for continuation of authority for regulation of exports, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass. The amendments are as follows (page and line numbers refer to the bill, as reported):

Page 1, strike out lines 3 through 5 and insert in lieu thereof the following:

SECTION 1. Section 12 of the Export Control Act of 1949 (50 U.S.C. App. 2032) is amended to read as follows:

"TERMINATION DATE

"SEC. 12. The authority granted in this Act terminates on June 30, 1971, or on any prior date which the Congress by concurrent resolution or the President may designate."

Page 2, immediately after line 4, insert the following:

SEC. 2. Section 6 of the Export Control Act of 1949 (50 U.S.C. App. 2026) is amended by adding at the end thereof the following new subsection:

"(d) In the administration of this Act, reporting requirements shall be so designed as to reduce the cost of reporting, recordkeeping, and export documentation required under this Act to the extent feasible consistent with effective enforcement and compilation of useful trade statistics. Reporting, recordkeeping, and export documentation requirements shall be periodically reviewed and revised in the light of

37-006—69——1

developments in the field of information technology. A detailed statement with respect to any action taken in compliance with this subsection shall be included in the first quarterly report made pursuant to section 8 after such action is taken."

PURPOSE OF THE BILL

The enactment of the proposed legislation (H.R. 4293) will serve two purposes. First, it will extend the Export Control Act of 1949 to June 30, 1971. Second, it will direct the administration, in carrying out the enforcement provisions of the act, to design reporting requirements which reduce the cost of reporting, recordkeeping, and export documentation to the extent feasible consistent with effective enforcement and the compilation of useful trade statistics.

BACKGROUND

The Export Control Act of 1949, as amended, provides the President with the authority to prohibit or curtail exports from the United States, its territories, and possessions; and authorizes him to delegate this authority to such departments, agencies, and officials of the Government as he deems appropriate. The export control authority, which has been delegated to the Secretary of Commerce, is administered by the Office of Export Control of the Bureau of International Commerce.

The 1949 act has been extended periodically for 2- and 3-year periods, with or without amendments, until 1965, when it was extended with amendments for 4 years.

The act authorizes controls over exports for three purposes--national security, foreign policy, and short supply. In addition, the 1965 amendments to the act included a policy statement that the United States opposes restrictive trade practices or boycotts by foreign countries against other countries friendly to the United States, and required exporters to report to the Secretary of Commerce any requests they receive for information or action that would interfere with normal trade relations such as restrictive trade practices or boycotts.

National security controls are instituted to provide control of exports from the standpoint of their significance to the security of the United States. They include an embargo on exports to Communist China, North Korea, the Communist-controlled area of Vietnam and Cuba, as well as broad controls over exports to the U.S.S.R. and other Eastern European areas. Security controls over exports to other countries apply to a highly selected list of commodities and technical data to prevent their unauthorized diversion or reexport to the foregoing countries.

Exports to certain non-Communist and Communist countries are controlled to further U.S. foreign policy and to aid the United States in fulfilling its international responsibilities. Examples are the controls on the export of hundreds of categories of nonstrategic goods to Eastern Europe, a virtual embargo on exports to Southern Rhodesia, and restrictions on exports of commodities and technical data for use in the development or testing of nuclear weapons, explosive devices, or maritime nuclear propulsion projects.

Short-supply controls, as directed by the policy of the act, are to be used only when it becomes necessary to protect the domestic economy from the excessive drain of scarce materials and to reduce the inflationary impact of abnormal foreign demand.

With two exceptions, the Department of Commerce controls exports from the United States, its territories, and possessions, through either the issuance of a "validated license" or the establishment of a "general license" authorizing such shipments. The two exceptions, which require neither a validated nor a general license, are: exports from the United States to its territories, and most exports to Canada for internal consumption.

A validated license is a formal document issued to an exporter by the Department. It authorizes the export of commodities within the specific limitations of the document. It is based upon a signed application submitted by the exporter.

A general license is a broad authorization issued by the Department of Commerce which permits certain exports under specified conditions. Neither the filing of an application by the exporter nor the issuance of a license document is required in connection with any general license. The authority to export in such an instance is given in the "Export Control Regulations," published by the Department of Commerce, which specify the conditions under which each general license may be used.

COMMITTEE HEARINGS AND ACTION

Five days of hearings were held before the Subcommittee on International Trade between May 22 and July 24, during which representatives from the Department of State, the Department of Defense, and the Department of Commerce, as well as public witnesses, testified on H.R. 4293, H.R. 11472, and H.R. 11563.

As a result of these hearings, the Subcommittee on International Trade recommended to the full committee an amendment which will provide for a 2-year extension, rather than a 4-year extension, as called for in H.R. 4293, in order to afford the Congress an opportunity for review within a relatively short period.

A second amendment provides that reporting, recordkeeping, and export documentation requirements shall be designed to reduce costs to exporters to the extent feasible consistent with effective enforcement and compilation of useful trade statistics. Action to revise these requirements is to be included in the first quarterly report issued after revisions are made.

The amendment was offered on the basis of testimony before the subcommittee of both administration and public witnesses that recent developments in documentation, computerization, containerization of merchandise, and the continuous movement of goods, require that the Department of Commerce revise and update its techniques for obtaining compliance with Export Control Regulations and for collecting export statistics. Testimony was heard that archaic requirements are costing exporters approximately an additional $100 million annually.

CHANGES IN TEXT OF EXISTING STATUTES

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, the text of existing Federal statutes or parts thereof which the bill, as reported, would amend or repeal is printed below, with the proposed changes shown (*a*) by enclosing in black brackets material to be omitted, (*b*) by printing the new matter in italic type, and (*c*) by printing in roman type those provisions in which no change is to be made.

Export Control Act of 1949
(50 U.S.C. App. 2021–2032)

AN ACT To provide for continuation of authority for the regulation of exports, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Export Control Act of 1949."

FINDINGS

SECTION 1. (a) Certain materials continue in short supply at home and abroad so that the quantity of United States exports and their distribution among importing countries affect the welfare of the domestic economy and have an important bearing upon fulfillment of the foreign policy of the United States.

(b) The unrestricted export of materials without regard to their potential military and economic significance may adversely affect the national security of the United States.

DECLARATION OF POLICY

SEC. 2. (1) The Congress hereby declares that it is the policy of the United States to use export controls to the extent necessary (A) to protect the domestic economy from the excessive drain of scarce materials and to reduce the inflationary impact of abnormal foreign demand; (B) to further the foreign policy of the United States and to aid in fulfilling its international responsibilities; and (C) to exercise the necessary vigilance over exports from the standpoint of their significance to the national security of the United States.

(2) The Congress further declares that it is the policy of the United States to formulate, reformulate, and apply such controls to the maximum extent possible in cooperation with all nations with which the United States has defense treaty commitments, and to formulate a unified commercial and trading policy to be observed by the non-Communist-dominated nations or areas in their dealings with the Communist-dominated nations.

(3) The Congress further declares that it is the policy of the United States to use its economic resources and advantages in trade with Communist-dominated nations to further the national security and foreign policy objectives of the United States.

(4) The Congress further declares that it is the policy of the United States (A) to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States and (B) to encourage and request domestic concerns engaged in the export of articles, materials, supplies, or information, to refuse to take any action, including the furnishing of information or the signing of agreements, which has the effect of furthering or supporting the restrictive trade practices or boycotts fostered or imposed by any foreign country against another country friendly to the United States.

AUTHORITY

SEC. 3. (a) To effectuate the policies set forth in section 2 hereof the President may prohibit or curtail the exportation from the United States, its Territories, and possessions, of any articles, materials, or supplies, including technical data or any other information, except under such rules and regulations as he shall prescribe. To the extent necessary to achieve effective enforcement of this Act, such rules and regulations may apply to the financing, transporting, and other servicing of exports and the participation therein by any person. Such rules and regulations shall provide for denial of any request or application for authority to export articles, materials, or supplies, including technical data, or any other information, from the United States, its Territories and possessions, to any nation or combination of nations threatening the national security of the United States if the President shall determine that such export makes a significant contribution to the military or economic potential of such nation or nations which would prove detrimental to the national security and welfare of the United States. Such rules and regulations shall implement the provisions of section 2(4) of this Act and shall require that all domestic concerns receiving requests for the furnishing of information or the signing of agreements as specified in section 2(4) must report this fact to the Secretary of Commerce for such action as he may deem appropriate to carry out the purposes of section 2(4).

(b) The President may delegate the power, authority, and discretion conferred upon him by this Act, to such departments, agencies, or officials of the Government as he may deem appropriate.

(c) The authority conferred by this section shall not be exercised with respect to any agricultural commodity, including fats and oils, during any period for which the supply of such commodity is determined by the Secretary of Agriculture to be in excess of the requirements of the domestic economy, except to the extent required to effectuate the policies set forth in section 2(1)(B) or 2(1)(C) of this Act.

CONSULTATION AND STANDARDS

SEC. 4. (a) In determining what shall be controlled hereunder, and in determining the extent to which exports shall be limited, any department, agency, or official making these determinations shall seek information and advice from the several executive departments and

independent agencies concerned with aspects of our domestic and foreign policies and operations having an important bearing on exports.

(b) In authorizing exports, full utilization of private competitive trade channels shall be encouraged insofar as practicable, giving consideration to the interests of small business, merchant exporters as well as producers, and established and new exporters, and provisions shall be made for representative trade consultation to that end. In addition, there may be applied such other standards or criteria as may be deemed necessary by the head of such department, or agency, or official to carry out the policies of this Act.

VIOLATIONS

SEC. 5. (a) Except as provided in subsection (b) of this section, in case of any violation of any provision of this Act or any regulation, order, or license issued hereunder, the violator or violators, upon conviction, shall be punished by a fine of not more than $10,000 or by imprisonment for not more than one year, or by both such fine and imprisonment. For a second or subsequent offense, the offender shall be punished by a fine of not more than three times the value of the exports involved or $20,000, whichever is greater, or by imprisonment for not more than five years, or by both such fine and imprisonment.

(b) Whoever willfully exports anything contrary to any provision of this Act or any regulation, order, or license issued hereunder, with knowledge that such exports will be used for the benefit of any Communist-dominated nation, shall be punished by a fine of not more than five times the value of the exports involved or $20,000, whichever is greater, or by imprisonment for not more than five years, or by both such fine and imprisonment.

(c) The head of any department or agency exercising any functions under this Act, or any officer or employee of such department or agency specifically designated by the head thereof, may impose a civil penalty not to exceed $1,000 for each violation of this Act or any regulation, order, or license issued under this Act, either in addition to or in lieu of any other liability or penalty which may be imposed.

(d) The payment of any penalty imposed pursuant to subsection (c) may be made a condition, for a period not exceeding one year after the imposition of such penalty, to the granting, restoration, or continuing validity of any export license, permission, or privilege granted or to be granted to the person upon whom such penalty is imposed.

(e) Any amount paid in satisfaction of any penalty imposed pursuant to subsection (c) shall be covered into the Treasury as a miscellaneous receipt. The head of the department or agency concerned may, in his discretion, refund any such penalty, within two years after payment, on the ground of a material error of fact or law in the imposition. Notwithstanding section 1346(a) of title 28 of the United States Code, no action for the refund of any such penalty may be maintained in any court.

(f) In the event of the failure of any person to pay a penalty imposed pursuant to subsection (c), a civil action for the recovery thereof may, in the discretion of the head of the department or agency concerned, be brought in the name of the United States. In any such action, the court shall determine de novo all issues necessary to the establishment

of liability. Except as provided in this subsection and in subsection (d), no such liability shall be asserted, claimed, or recovered upon by the United States in any way unless it has previously been reduced to judgment.

(g) Nothing in subsection (c), (d), or (f) shall limit—

(1) the availability of other administrative or judicial remedies with respect to violations of this Act or any regulation, order, or license issued under this Act,

(2) the authority to compromise and settle administrative proceedings brought with respect to violations of this Act or any regulation, order, or license issued under this Act, or

(3) the authority to compromise, remit, or mitigate seizures and forfeitures pursuant to section 1(b) of title VI of the Act of June 15, 1917 (22 U.S.C. 401(b)).

ENFORCEMENT

SEC. 6. (a) To the extent necessary or appropriate to the enforcement of this Act, the head of any department or agency exercising any functions hereunder (and officers or employees of such department or agency specifically designated by the head thereof) may make such investigations and obtain such information from, require such reports or the keeping of such records by, make such inspection of the books, records, and other writings, premises, or property of, and take the sworn testimony of, any person. In addition, such officers or employees may administer oaths or affirmations, and may by subpoena require any person to appear and testify or to appear and produce books, records, and other writings, or both, and in the case of contumacy by, or refusal to obey a subpoena issued to, any such person, the district court of the United States for any district in which such person is found or resides or transacts business, upon application, and after notice to any such person and hearing, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce books, records, and other writings, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(b) No person shall be excused from complying with any requirements under this section because of his privilege against self-incrimination, but the immunity provisions of the Compulsory Testimony Act of February 11, 1893 (27 Stat. 443) shall apply with respect to any individual who specifically claims such privilege.

(c) No department, agency, or official exercising any functions under this act shall publish or disclose information obtained hereunder which is deemed confidential or with reference to which a request for confidential treatment is made by the person furnishing such information unless the head of such department or agency determines that the withholding thereof is contrary to the national interest.

(d) In the administration of this Act, reporting requirements shall be so designed as to reduce the cost of reporting, recordkeeping, and export documentation required under this Act to the extent feasible consistent with effective enforcement and compilation of useful trade statistics. Reporting, recordkeeping, and export documentation requirements shall be periodically reviewed and revised in the light of developments in the field of information technology. A detailed statement with respect to any

action taken in compliance with this subsection shall be included in the first quarterly report made pursuant to section 8 after such action is taken.

EXEMPTION FROM ADMINISTRATIVE PROCEDURE ACT

SEC. 7. The functions exercised under this Act shall be excluded from the operation of the Administrative Procedure Act (60 Stat. 237), except as to the requirements of section 3 thereof.

QUARTERLY REPORT

SEC. 8. The head of any department or agency or official exercising any functions under this Act shall make a quarterly report, within 45 days after each quarter, to the President and to the Congress of his operations hereunder.

DEFINITION

SEC. 9. The term "person" as used herein shall include the singular and the plural and any individual, partnership, corporation, or other form of association, including any government or agency thereof.

EFFECTS ON OTHER ACTS

SEC. 10. The Act of February 15, 1936 (49 Stat. 1140), relating to the licensing of exports of tin-plate scrap, is hereby superseded; but nothing contained in this Act shall be construed to modify, repeal, supersede, or otherwise affect the provisions of any other laws authorizing control over exports of any commodity.

EFFECTIVE DATE

SEC. 11. This Act shall take effect February 28, 1949, upon the expiration of section 6 of the Act of July 2, 1940 (54 Stat. 714), as amended. All outstanding delegations, rules, regulations, orders, licenses, or other forms of administrative action under said section 6 of the Act of July 2, 1940, shall, until amended or revoked, remain in full force and effect, the same as if promulgated under this Act.

[TERMINATION DATE

[SEC. 12. The authority granted herein shall terminate on October 31, 1969, or upon any prior date which the Congress by concurrent resolution or the President may designate.]

TERMINATION DATE

SEC. 12. The authority granted in this Act terminates on June 30, 1971, or on any prior date which the Congress by concurrent resolution or the President may designate.

SUPPLEMENTAL VIEWS OF HON. THOMAS L. ASHLEY

The Export Control Act was enacted in 1949 as a temporary measure and as a necessary weapon in the evolving cold war. At that time Western Europe, still economically weak form the ravages of the Second World War, appeared to the Congress to be in realistic danger of attack from the monolithic Sino-Soviet bloc under the leadership of Stalin; and it was further believed, comparing our industrial might with both Eastern and Western Europe at that time, that goods withheld from the Soviets by means of controls on American commodities could not be elsewhere obtained.

Now, 20 years later, these underlying premises have drastically changed. From the standpoint of our national security and the conduct of our foreign affairs, which, of course, remain paramount in our consideration of export controls, as well as from the vantage point of domestic economic considerations, we have moved into a period in which the Congress should maintain a close, in-depth review of our export control laws with a view to reshaping them in light of political, economic, and technological changes taking place in Western Europe, Japan, and the Communist countries of Eastern Europe. It is against this background that the committee has recommended a 2-year, rather than a 4-year, extension of the Export Control Act.

Responding to the aggressive, monolithic communistic structure which confronted the free world in 1949–50, two separate administrative agencies were established to impose restrictions on free world trade with Eastern Europe. One was our own Office of Export Control and the other was the combined COCOM apparatus by which Western Europe, Japan, and the United States sought cooperatively to withhold certain goods and commodities from the Communist bloc countries.

It is normal for a country to impose export controls in case of war or other overriding national emergencies. Our 20-year export controls are not of that character. With specific exceptions—as when there are shortages of particular commodities because of strikes or other reasons—the whole machinery of U.S. control has been directed to one end; to severely limit exports to the Communist countries.

This is illustrated by the fact that these two mechanisms, the Office of Export Control and the COCOM, both designed to restrict trade with the Communist nations, have never been closely coordinated. For example, commodities such as milk and cream, not controlled by COCOM, require a validated license for export to some countries of Eastern Europe, but not for export to Poland and Rumania. The wide differential in goods we control unilaterally, but which are not controlled by COCOM, continues in the face of the congressional mandate set forth in section 2(2) of the Export Control Act that:

> It is the policy of the United States to formulate, reformulate, and apply such controls to the maximum extent possible

> in cooperation with all nations with which the United States has defense treaty commitments, and to formulate a unified commercial and trading policy to be observed by the non-Communist-dominated nations or areas in their dealings with the Communist-dominated nations.

The Subcommittee on International Trade received testimony indicating that we continue to unilaterally control hundreds of categories of goods on political grounds. Testimony taken by the subcommittee indicated that even now, 2,029 commodity categories are under control for such countries as Bulgaria, Czechoslovakia, Hungary and the U.S.S.R., while 1,753 of these are controlled for Poland and Rumania, at the same time that COCOM has designated 552 categories for control.

The United States has demonstrated an almost compulsive tendency to regard the denial of trade with Communist nations as a primary instrument or weapon of the cold war, whether trade be in strategic or nonstrategic goods. The countries of Western Europe and Japan, on the other hand, have sought through COCOM to prevent strategic exports to Communist bloc nations, but they have regarded trade in nonstrategic goods and commodities to be not only in their commercial interest but also a means of reducing East-West tensions.

While U.S. leaders have never hidden our restrictive policy from the American public, our European counterparts—both in government and business who were involved in it—exercised extreme official secrecy and were glad not to have the question discussed publicly.

West European observers have seen embargo as playing into the hands of Stalin. It enabled him to consolidate control in the Communist bloc and forced the small Eastern European countries closer to the Soviet Union. On balance, these observers have seen embargo as resulting in a strengthening of the military-industrial sector of the Communist bloc and therefore under the circumstances it was welcome and advantageous to the Kremlin.

The United States has exerted a tremendous effort to enforce the embargo. U.S. measures were so stringent that we risked American political goodwill with our allies. West Europeans have further resented the accompanying American economic intelligence work within their countries. They have found U.S. pressures alien to a voluntary alliance.

What has been the net effect of this costly and, to our allies, abrasive effort? Any realistic appraisal must admit that the Sovet Union has become a highly industrialized, technologically sophisticated nation with a military force capable of engaging any adversary in the world. The embargo has failed to shift the balance of power. Communism has not been, and it is now even less likely to be, blockaded out of existence. At best, it has increased costs in the Communist bloc and slightly slowed down the expansion and modernization of some isolated branches of military and military supporting industries.

The Soviet economy, unlike the smaller East European countries, is practically self-sufficient. Total Soviet imports represent a mere 4 percent of the country's gross national product. It is rich in natural resources. Modern science permits great flexibility through substitute alternatives. A bottleneck approach simply does not work with a nation of such natural endowments and technological level. Besides, the

embargo items are not unknown to the Communist intelligence network and, in some respects, the list has aided Soviet planners with important information for determining what commodities to purchase, produce, or stockpile.

At this stage of development, the United States has at least as much to gain as the Communist countries from mutual trade and the barring of this trade today is hurting us more than them. This is true because they can find substitute suppliers for almost everything important, while we cannot find substitute markets in a time when we need more exports desperately, and the concept that we have all the advanced know-how and products while they have none is out of date. As far as the export controls are concerned, we have already lost much leverage for concessions from the Communist countries. At the same time, the controls on commercial goods continue not only as an irritant to our allies but as a loss in business to U.S. firms.

If there is any question about this, we need only consider the fact that the trade of Eastern Europe with the non-Communist world in 1967 was almost $14 billion, of which Western Europe and Japan accounted for almost $9 billion. The United States is virtually a nonparticipant in this trade; while we account for about 16 percent of world exports, we have only about three-tenths of 1 percent of the exports to Eastern Europe. It is worth mentioning, too, that East-West trade has more than doubled during the past 10 years and has grown faster than trade either within the Eastern European bloc or among the Western countries themselves. Over the past decade, world trade has been growing at about 8 percent a year, while East-West trade has been growing at about 12 percent. But because of the frozen trade policy pursued by the United States, we have forfeited any advantage from this increased commerce, and in so doing have given other trading nations a most unique and enviable competitive position.

I believe that it is time to give full congressional recognition to the value in expanding trade in peaceful goods and technology with the Soviet Union and the other countries of Eastern Europe and I believe it is time our export control laws and policy implemented this objective.

The Export Control Act should be amended to include a finding that expanded trade in peaceful goods and technology with all countries with which we have diplomatic or trading relations can further the sound growth and stability of the U.S. economy as well as further our foreign policy objectives. The act should be further amended to include a declaration that it is the policy of the United States to encourage trade in peaceful goods with all countries with which we have diplomatic or trading relations, except to the extent that the President determines such trade to be against the national interest.

THOMAS L. ASHLEY.

SUPPLEMENTAL VIEWS OF HON. RICHARD T. HANNA

It has been suggested that the Export Control Act be amended to authorize the President to exercise control over drug exports for the purpose of enabling him to prohibit the export of depressants or stimulants which are likely to be unlawfully shipped back to the United States. The approach was suggested several weeks after the committee had completed its hearings on the bill. For this reason, the committee did not have an opportunity to elicit the views of the enforcement officials on the need for such legislation.

Because I am deeply concerned about the heavy flow of illicit drugs across our border with Mexico and because I want to do everything possible to assist enforcement officials to deal with this problem, I have asked the Attorney General and the Secretary of Commerce to tell me if they feel that this added authority would enable them to wage a more effective campaign to curb illegal drug traffic. If these officials—who are responsible for enforcement—inform me that such added power would be helpful, I will offer an amendment to provide these authorities when this bill reaches the floor.

RICHARD T. HANNA.

SUPPLEMENTAL VIEWS OF HON. CHESTER L. MIZE

The Department of Commerce should discontinue its practice of imposing discriminatory shipping requirements as a condition to obtaining a license to export wheat and feed grains to several East Europe destinations. These restrictions became effective at the time of a 1963 Presidential decision to sell a large quantity of wheat to the Soviet Union. Since that time, they have remained in force, and have effectively denied a significant market to U.S. grain shippers and farmers.

Since the 1963 Soviet wheat purchase, the Department of Commerce has administered the Export Control Act in such a fashion that at least 50 percent of all wheat and feed grains sold to several Eastern European countries is required to be shipped on U.S.-flag vessels. Testimony before committees of both Houses of Congress has convinced me that these restrictions, imposed on all such sales whether or not they are "Government sponsored" or purely private commercial transactions, are in violation of at least 30 commercial treaties in force between the United States and other nations of the world.

In addition to the questionable legality of the Commerce regulations requiring cargo preferences on grains, there has been an unacceptable practical result. The preferences deny U.S. grainmen markets which they desperately need in a period of world oversupply and buyer's market.

The preferences make the U.S. price unacceptably high. From U.S. gulf ports to Black Sea ports, U.S.-flag shipping rates average about $18 per long ton on ships of over 20,000 tons displacement. Comparable foreign vessels will ship the commodities for about $7 per long ton. This disparity in shipping rates has been the reason, by and large, for the failure of American sales in the years the preferences have been in force. During fiscal years 1965 through 1968, the United States shipped just under 2.5 million bushels of wheat to affected destinations. During the same period of time, Canada shipped 551 million bushels; Australia shipped 53 million bushels; and France shipped 102 million bushels. The United States was able to make sales in countries where the restrictions do not apply. In those same years, our sellers shipped 138 million bushels to Poland and Yugoslavia.

I considered offering an amendment to the Export Control Act placing a specific prohibition against the preferences. However, I declined to do so because the origin of the restriction is not in a congressional act but in a decision made by the executive branch. The preferences, therefore, should be removed by the executive branch.

In the past 3 years not a single bushel of U.S. wheat has been sold to any nation subject to cargo preference shipments. Thus, any supposed protection or benefit for the U.S. merchant marine is wholly illusory. The 75,000 members of the maritime union have had no shipments to carry; therefore, they have had no work guaranteed them by the preferences. On the other hand, 1 million U.S. wheat-

farmers and thousands of shippers and consignors have been frozen out of a market in which they otherwise would have been competitive bidders.

Meanwhile, the U.S. surplus of wheat has risen to over 800 million bushels, and could soon reach 1 billion bushels. This year, severe allotment cuts for wheat farmers were necessary due to oversupply at home and abroad.

The preferences wrongfully interfere with sales of nonstrategic goods. They contribute to the financial burdens of the United States, for they require grain to be stored at home, at Government expense, when it could be sold abroad. Most important of all, they contribute to the crisis of our faltering agricultural exports, which is partially responsible for disgracefully low market prices for commodities in the United States.

Elimination of cargo preferences would in no way curb the flexibility which the administration desires in the Export Control Act. Just as before, any shipment to any Eastern European country could be prohibited for reasons of national security or foreign policy or domestic short supply. Cargo preferences in no way contribute to the stated legislative goals of the Export Control Act.

I support the administration's desire for flexibility. To this end, I have supported a straight extension of the act, without amendment. But I call upon the executive branch to eliminate discriminatory restrictions on purely commercial trade. They are probably illegal; they are certainly unsupportable from a budgetary point of view. They are clearly not in the best interests of all the people.

I should observe that cargo preferences on "Government-sponsored shipments" have historic precedent. Those shipments, such as food-for-peace consignments, are entirely independent of any criticism I have advanced here. As national policy, we have decided that Government-sponsored shipments should be consigned to a large extent on U.S.-flag ships. I have no basis for opposing that policy—there is good evidence to show that without those preferences, the U.S. merchant fleet would become insolvent through inability to compete on the high seas.

CHESTER L. MIZE.

SUPPLEMENTAL VIEWS OF HON. BENJAMIN B. BLACKBURN, HON. TOM BEVILL, HON. CHARLES H. GRIFFIN, AND HON. CHALMERS P. WYLIE

While we join in supporting the committee's recommendation that the Export Control Act of 1949 be extended for 2 years, I wish to inform the Members of the House that there is an issue relating to export policy which, though not presented to the committee, should be considered by the House.

There was apprehension on the part of the administration that the adoption of any significant amendments by the committee would not be advantageous for our foreign policy at this time. The State Department felt that it would not be wise to imply any significant change in trade policy. Therefore, I refrained from proposing my amendment.

It has been a principle of American Government that the Congress has the right to regulate interstate and foreign commerce. Article I, section 8, of the Constitution of the United States states, "The Congress shall regulate commerce with foreign nations * * *."

The Export Control Act of 1949 states that the President can prohibit the export of material to any country through any rules he prescribes. He does not have to inform the Congress of his actions or ask for the consent of Congress. A complete embargo is tantamount to a declaration of economic warfare. I feel strongly that the President should not be allowed to declare economic war upon any nation without receiving the consent of the Congress. Furthermore, an economic embargo being a national commitment, the Congress should pass upon it.

Therefore, I plan to propose an amendment on the House floor which will require the President to obtain consent of the Congress before declaring a long-term economic embargo against any nation. I am aware of the fact that certain international situations could arise in which the need for an embargo is imperative and cannot await congressional action. Therefore, I stipulate in my amendment that the President can impose an embargo for 60 days without first receiving the consent of Congress, but if consent is not obtained within the stated period, the embargo is immediately lifted and cannot be reimposed for at least 12 months without first obtaining congressional authorization.

During the past few years, we have seen the Congress lose any significant control over the foreign commitments of the United States. I believe that as the representatives of the people of the United States, the Congress has the duty to pass upon matters of economic importance which would affect the international trade policy of the United States. My amendment is a step in restoring some congressional control over the foreign commerce policies of the United States.

The international policies of our Nation have a direct impact upon the daily affairs of our citizens, labor, management, and capitalist. In my opinion, the Members of Congress, as spokesmen for the citizens affected, should have some authority in the area of international economic policy commitments.

For the information of the Members, I am hereby including in my views a copy of the amendment which I propose to present to the House when it considers the extension of the Export Control Act.

AMENDMENT OFFERED BY MR. BLACKBURN TO H.R. 4293

Add the following new section at the end:

SEC. 3. Section 3 of the Export Control Act of 1949 is amended by adding the following new subsection at the end:

"(d)(1) Except as provided in paragraph (2) of this subsection, any embargo imposed by the President against any nation shall lapse sixty days after it is imposed or sixty days after the enactment of this subsection, whichever is later.

"(2) With the approval of Congress expressed by a concurrent resolution passed by both Houses within sixty days before or after the imposition of an embargo by the President against any nation or, in the case of an embargo in effect on the date of enactment of this subsection, passed within sixty days after that date, the embargo may be continued against that nation until such date as the Congress by concurrent resolution or the President may determine.

"(3) If an embargo against any nation has lapsed pursuant to paragraph (1) of this subsection or been terminated pursuant to paragraph (2), the President may not impose a new embargo against that nation within 12 months after the date of lapse or termination unless specifically authorized by legislation enacted after the date of enactment of this subsection.

"(4) As used in this subsection, the term 'embargo' refers to a total or substantially total embargo imposed under authority of this or any other Act."

BEN BLACKBURN,
TOM BEVILL,
CHARLES H. GRIFFIN
CHALMERS P. WYLIE.

SUPPLEMENTAL VIEWS OF HON. GARRY BROWN

When the Export Control Act was enacted in 1949, it substantially reflected the strategic trade policy of the free world. Because our interests, our intents, our fears were shared by the rest of the free world? No. Rather, our free world friends and allies at that time were recuperating from the ravages of war; were being fed back to life by the Marshall plan; and, were little concerned about export policy, strategic or otherwise, since they had little or not capaciy to compete for export markets. As a consequence, our Export Control Act in 1949 realistically reflected the "shape of the times" both for our Nation and for our friends and allies.

It was in this atmosphere that most free world nations voluntarily decided to establish a strategic trade policy with which they would comply. There was developed a list of items, goods, and commodities, which were restricted from trade with nations whose interests appeared to be inimical to those of the Consultative Group, or CG, nations as this voluntary association of nations was, and is called. These CG nations established a permanent working committee called the Coordinating Committee which continues to supervise the trade list. This COCOM list, at its inception and during its formative years quite nearly reflected the restrictive trade "list" developed under the policy provisions of our own Export Control Act.

It is obvious that our friends and allies at that time saw no reason at all for not restricting trade in certain items with the Soviet bloc nations when we were the only nation capable of such trade and we were advocating such restrictions. In other words, when there was no economic interest or benefit to protect or promote in such trade, our friends and allies were quite content to support our posture regarding trade restrictions.

But this is not 1949, or even the early 1950's, and international trade or potential for such trade by our friends and allies is radically different from what it was in those days. I suggest it is axiomatic that the same export control policy cannot fit both situations; that our Export Control Act does not reflect the "shape of the times"; and, that modernization is necessary if it is to be as realistic for today as it was for the days when it was enacted.

Members of Congress who have spoken on the issue of extension of the Export Control Act have by and large advocated either: (1) Straight extension of the act with no modifications whatsoever; or, (2) substantial liberalization of our trade policy to reflect an attitude by this Nation of promotion and encouragement of economic intercourse with Soviet bloc nations to improve international understanding and to improve our international-balance-of-trade picture. In my opinion, neither position is both economically and politically realistic.

Straight extension of the Export Control Act is economically unrealistic because it limits and restricts trade by our domestic exporters

to Soviet bloc nations without in any way controlling the receipt Soviet bloc nations of the very same goods and commodities from other sources, to wit, from our friends and allies; and, we have been advised by witnesses appearing before the committee that there are many items on our prohibited trade list which could make no significant strategic contribution to Soviet bloc nations. The free world list of restricted items, the COCOM list, consists of fewer than 600 items whereas the list developed under our Export Control Act consists of over 2,000 items. It is unrealistic for us to merely extend the authority of an act when the objective of that act is being substantially subverted daily.

It is not only unrealistic but it is unwise for us to extend the authority of an act, the substantial impact of which is the penalizing of our exporters and the prevention of trade which would help us improve our disgraceful balance of trade and payments position.

It is almost as politically unrealistic for any Member of Congress to think that a majority of the Congress or a majority of the electorate will accept a major liberalization of our trade policy, especially with respect to goods which may have a dual use or be of even limited strategic significance to Soviet bloc nations, at a time when American boys are losing their lives on the battlefields of Vietnam as a result of equipment and assistance being furnished to our enemies by some of the same Soviet bloc nations.

It is because I have rejected both of these positions as being either economically or politically unrealistic and unacceptable or unwise that I have advocated modification and amendment of the Export Control Act in a way in which I, and many others, feel we can make more effective and real the objective of our Export Control Act while at the same time we can relieve our domestic exporters of unrealistic and unnecessary restrictions and controls thereby benefiting the economic well-being of this Nation with respect to world trade.

My proposed amendments were introduced in the form of legislation but I will not here again recite the detailed explanation which I placed in the record at the time I introduced H.R. 11563 and which appear on pages E4171–E4173 in the Congressional Record for May 21, 1969.

The thrust of the amendments which I have proposed is relatively simple, but would have significant impact on accomplishment of the objective of our Export Control Act. My proposed modifications are intended to make our Export Control Act more realistic and more reflective of the conditions and circumstances of today.

The objective of our strategic goods export control policy must be the preventing of receipt by the Soviet bloc nations of goods, commodities, technology, and information which we believe would be detrimental to our national security. With this objective I concur. But that objective can only be accomplished to the extent that our friends and allies, other nations of the free world, cooperate and restrict their export of such items. A unilateral policy on the part of this Nation not complied with or with which cooperation is not granted by friendly nations, does not accomplish the objective, while it harms our economic well-being.

Therefore, the amendments I proposed provide that the President shall take into consideration the availability of an export from any

nation with which we have a defense treaty commitment in determining whether or not an export license shall be denied or granted to one of our own exporters. To the extent that we can more advantageously trade in certain exports than can our friends and allies we will be the beneficiaries of such trade; in turn, to the extent our friends and allies see that unfettered trade in certain items by this country will preempt their markets and that no economic benefit will be derived by them by virtue of the permitting of such trade, they will be put in much the same position they occupied in 1949 and should be willing to agree that if we will restrict our trade in such items, they too, will comply with such policy to make it a multilateral policy and as a result the objective of our Export Control Act—the interdicting of goods otherwise available to Soviet bloc nations—becomes fait accompli.

That there may be some loosening of the overly restrictive controls which presently prevail, as a byproduct of the primary aim of my amendments, does not disturb me.

The further impact of my amendatory legislation is to give the President greater flexibility and authority in determining what exports to the Soviet Bloc nations would be detrimental to the security of the United States. Not only would my amendments broaden the scope of the considerations the President may resort to in determining the importance of a particular export upon our national security but they also broaden the scope of things covered by the Export Control Act. Presently the Export Control Act in its findings relates only to the export of "materials" whereas under my amendments these "findings" would be expanded to include not only materials but also information and technology since the latter are almost as important today as are goods and materials.

This is not 1949. I respectfully suggest that we should not attempt to apply 1949 legislative answers to the circumstances of the 1960's and 1970's.

GARRY BROWN.